

Message Text

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ORIGIN L-02

INFO OCT-01 EUR-12 ISO-00 OES-04 AID-05 CEA-01 CIAE-00

COME-00 EB-06 EA-10 FRB-01 INR-07 IO-10 NEA-10

NSAE-00 RSC-01 OPIC-06 SP-02 TRSE-00 CIEP-02 LAB-03

SIL-01 SWF-01 OMB-01 SS-15 NSC-05 H-02 CEQ-01 EPA-04

DOT-00 INT-05 HUD-02 HEW-06 STR-04 AGR-10 SSO-00

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DRAFTED BY L/OES:JRCROOK:MERS

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OES/ENP/EN - MR. BENGELSDORF

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FM SECSTATE WASHDC

TO USMISSION OECD PARIS IMMEDIATE

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E.O. 11652: N/A

TAGS: SENV, OECD

SUBJECT: GERMAN PROPOSAL ON TITLE B

REF: BENGELSDORF-KRAMISH TELECON, 11/7

1. WE UNDERSTAND GERMANS WILL PROPOSE FOLLOWING CHANGE
TO OUR AMENDMENT TO TITLE B OF TFP ACTION PROPOSAL .
QUOTE IN ACCORDANCE WITH THEIR RIGHTS AND OBLIGATIONS
UNDER INTERNATIONAL LAW, AND IN CONFORMANCE WITH
PRINCIPLE 21 OF THE STOCKHOLM DECLARATION, STATES SHOULD
SEEK , AS FAR AS POSSIBLE, AN EQUITABLE BALANCE OF RIGHTS
AND OBLIGATIONS AS REGARDS THE ZONES CONCERNED BY TFP.
END QUOTE

2. IT IS NOT CLEAR WHY THE GERMANS ARE PROPOSING THIS
CHANGE AT THIS LATE DATE, OR WHY US-CANADIAN FORMULATION
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IS NOT ACCEPTABLE TO THEM. THE GERMAN PROPOSAL RAISES

A NUMBER OF PROBLEMS. FIRST, PRINCIPLE 21 IS CONSIDERABLY BROADER (AND SUBJECT TO MORE DIFFERING INTERPRETATIONS) THAN THE TIGHTER LANGUAGE OF THE US-CANADIAN PROPOSAL. SECOND, PRINCIPLE 21 CONTAINS A NUMBER OF CONCEPTIONS (PARTICULARLY THE RIGHT OF STATES TO EXPLOIT THEIR RESOURCES IN ACCORDANCE WITH THEIR OWN ENVIRONMENTAL POLICIES) WHICH MAY LEAVE POLLUTERS CONSIDERABLE LEEWAY, AND WHICH HAS CAUSED THE US DIFFICULTY IN THE LOS CONTEXT. THIRD, MANY DELEGATIONS HAVE IN THE

PAST RESISTED REFERENCE TO PRINCIPLE 21 WIHTOUT ACCOMPANYING REFERENCE TO PRINCIPLE 23, WHICH RECOGNIZES THE SPECIAL CIRCUMSTANCES OF DEVELOPING STATES. FOR THES REASONS, US IS NOT ENTHUSIASTIC ABOUT EMPHASIZING IMPORTANCE OF PRINCIPLE 21 BY REFERRING TO IT IN TITLE B, OR ABOUT SUBSTITUTING REFERENCE TO PRINCIPLE 21 FOR TIGHTER LANGUAGE DEVELOPED IN OTTAWA.

3. WE ARE ALSO CONCERNED THAT THE GERMAN PROPOSAL MAY REOPEN (OR OPEN UP FOR THE FIRST TIME) A NUMBER OF ISSUES WHICH MAY BLOCK A CONSENSUS.

4. FOR THESE REASONS, US IS NOT INCLINED TO SUPPORT GERMAN PROPOSAL. US WOULD PREFER TO HAVE GERMANS NOT PUT THEIR PROPOSAL FORWARD; IF THEY PRESS FOR IT, US SHOULD CONTINUE TO PRESS FOR ACCEPTANCE OF US-CANADIAN COMPROMISE.

5. OBVIOUSLY, CANADIAN POSITION WILL BE RELEVANT TO OUTCOME. MISSION SHOULD CONSULT WITH CANADIANS PRIOR TO MEETING AND URGE THEM TO STAY WITH AGREED US-CANADIAN FORMULA.

6. IF AGREEMENT CANNOT BE REACHED, ISSUE MAY BE CONSIDERED BY EXPERTS DURING COURSE OF MINISTERIAL. INGERSOLL

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